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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

MICHAEL BAKER
KOVA BAKER

VERSUS

ALLSTATE INS. CO.

CIVIL ACTION NO. 04-2039

JUDGE MELANÇON

MAGISTRATE JUDGE METHVIN

RULING ON MOTION TO COMPEL
(Rec. Doc. 21)

On August 1, 2005, plaintiffs Michael and Kova Baker filed a motion to compel discovery responses and for attorney's fees against defendant Allstate Insurance Company.¹ The motion has been set on the undersigned's September 28, 2005 motion calendar with oral argument, in accord with the Court's routine procedures for handling motions.

At this time, a review of the record reveals that no opposition has been filed and that the delays allowed for the filing of an opposition have expired.² Review of the motion further reveals that the relief which mover seeks is an order requiring initial responses to plaintiffs' interrogatories and a second request for production of documents, which were properly served on defendant on March 31, 2005. The motion further alleges that counsel conducted a Rule 37.1W discovery conference for the purpose of amicably resolving the discovery dispute, but that defendant nevertheless failed to provide responses. In light of the foregoing,

¹ Rec. Doc. 21. The motion was deficient, but the deficiency was corrected on August 8, 2005. See Rec. Doc. 23.

² Local Rule 7.5W requires that written opposition to a motion be filed within fifteen (15) days after service of the motion.

IT IS HEREBY ORDERED that the oral argument scheduled on September 28, 2005 is **CANCELED**, and the pending motion to compel is **GRANTED**.

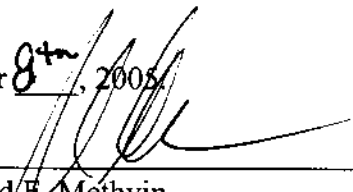
IT IS FURTHER ORDERED that the discovery responses requested in the motion to compel shall be provided to plaintiffs *within ten days of the date of this order*.

IT IS FURTHER ORDERED, pursuant to F.R.Civ.P. 37(a)(4), that Allstate Insurance Company shall pay the attorneys' fees and costs incurred in connection with the filing and prosecution of the extant motion to compel. Mover's counsel shall file an affidavit of fees and costs into the record *within ten days of the date of this order* in order to assist the court in the assessment of a reasonable fees and costs award. The affidavit(s) shall contain: (1) the customary hourly rate of each attorney and paralegal involved; (2) a detailed description of each task completed, and a statement of the amount of time expended upon each task; and (3) an itemized list of expenses incurred. **Failure to file the affidavit in the form required and/or within the deadline imposed will render the award null and void.** Objections to the affidavit shall be filed *within five days of the affidavit being filed*.

IT IS FURTHER ORDERED that the Clerk of Court shall notice any affidavit filed for consideration on the October 2005 motion calendar as an "assessment of Rule 37(a)(4) fees and expenses."

IT IS FURTHER ORDERED that the Clerk shall FAX a copy of this order to all counsel of record.

Signed at Lafayette, Louisiana on September 8th, 2005



Mildred E. Methvin
United States Magistrate Judge
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Lafayette, Louisiana 70501
(337) 593-5140 (phone) 593-5155 (fax)

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